

contains a formal waiver of speedy trial and statute of limitation rights. A copy of the diversion agreement signed by all parties is attached hereto as an Exhibit.

- (2) Defense counsel informed the Court of this final settlement on Friday, July 6, and also indicated that in light of this agreement he and Mr. Rangel would not be attending any further hearings or trial absent an order to the contrary. Defense counsel first learned that the Court wished to receive a written stipulation excluding time under the Speedy Trial Act by e-mail on his cell phone at about 3:45 pm on Tuesday, July 10, 2012, the afternoon before the 9 am hearing in this case. At that time, Mr. Rangel was in Seattle due to his employment as a long haul truck driver. Defense counsel is on telephone standby for jury duty in San Mateo County on July 11, the date of the hearing in this case. For these reasons, neither Mr. Rangel nor defense counsel expected to have to attend the July 11, 9 am hearing.
- (3) Upon learning of the Court's wishes, defense counsel, through a certified Spanish interpreter, obtained via telephone Mr. Rangel's oral agreement to again waive his speedy trial rights through an exclusion of time for the duration of his six month diversionary period.
- (4) Defense counsel further points out that Mr. Rangel has appointed counsel and travels for a living as a long haul truck driver. It would be a hardship for him to attend court hearings in San Jose in a case in which he is no longer a participant. Such court appearances would also waste CJA, prosecutorial and judicial resources.

Accordingly, the parties hereby stipulate and agree that the time from now until the expiration of Mr. Rangel's six month diversionary period shall be excluded under the Speedy Trial Act for the following reasons:

- (1) Because the prosecution is deferred by the attorney for the government pursuant to written agreement with the defendant, with the approval of the Court as signified by the following order, for the purpose of allowing the defendant to demonstrate his good conduct. 18 U.S.C. Sec. 3161 (h) (2).

1 (2) Because the period of delay resulting from the continuance is based on the fact that
2 the ends of justice served by taking such action outweigh the best interest of the
3 public and the defendant in a speedy trial, for the reasons outlined above. 18 U.S.C.
4 Sec. 3161 (h) (7) (A).

5 Accordingly, the parties hereby stipulate that the time between the filing of this
6 stipulation and the end of Mr. Rangel's six month diversionary period shall be excluded for
7 purposes of the Speedy Trial Act. A [Proposed] Order follows.

8 Dated: July 10, 2012

Respectfully submitted,

9 */s/ Mark D. Eibert*

10 MARK D. EIBERT

11 Attorney for Defendant Daniel Rangel

12 Dated: July 10, 2012

/s/ Jeffrey Nedrow

13 JEFFREY NEDROW

14 Attorney for the Government
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(1) The prosecution is deferred by the attorney for the government pursuant to written agreement with the defendant, with the approval of the Court as signified by this order, for the purpose of allowing the defendant to demonstrate his good conduct. 18 U.S.C. Sec. 3161 (h) (2).

IT IS SO ORDERED.

Lucy H. Koh
HON. LUCY H. KOH
UNITED STATES DISTRICT JUDGE